

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

WILLIAM TIDWELL,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	3:06cv900-MHT
ESTATE OF VERNELL BRIAN)	
MORRIS, <i>et al.</i> ,)	
)	
Defendants.)	

MOTION TO REMAND

COMES NOW the Plaintiff, William Tidwell, by and through his undersigned attorney, and moves this Honorable Court to remand this case to the Circuit Court of Macon County, Alabama, and as grounds therefore, says as follows:

1. That the Defendants have removed this case on the basis of diversity of citizenship and a representation that the four separate counts of the Complaint, each claiming \$75,000.00 in damages, plus costs, exceeds the \$75,000.00 jurisdictional minimal limit of this court.

2. That the Plaintiff and Plaintiff's attorney have each attached hereto an affidavit waiving any claim for damages in excess of a total of \$75,000.00 under the

alternate legal theories of liability set forth in said Complaint.

3. That the damages claimed in this case do not exceed the jurisdictional minimal limit of this Court of \$75,000.00 and the case is due to be remanded.

WHEREFORE, Plaintiff moves the Court to remand this case to the Circuit Court of Macon County, Alabama, for further proceedings.

Done and dated on this the 18th day of October, 2006.

/s/ Henry F. Lee, III
Henry F. Lee, III
ASB# 0832-E40H
Attorney for Plaintiff
P.O. Box 129
Geneva, AL 36340
Telephone: (334) 684-6406
Telecopier: (334) 684-2602

CERTIFICATE OF SERVICE

I, Henry F. Lee, III, do hereby certify that I have this date mailed a copy of the foregoing pleading to S. Anthony Higgins, Esq., Attorney for Defendants, by placing a copy of same in the United States Mail, postage prepaid and properly addressed to him at P.O. Box 4128, Montgomery, AL 36103 on this the 18th day of October, 2006.

/s/ Henry F. Lee, III
Of Counsel

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AFFIDAVIT OF HENRY F. LEE, III

STATE OF ALABAMA

GENEVA COUNTY

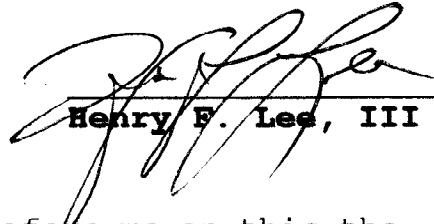
Before me the undersigned authority personally appeared Henry F. Lee, III, who being by me first duly sworn, deposes and says as follows:

My name is Henry F. Lee, III, and I am a practicing attorney in good standing with the Alabama State Bar and with the District Court for the Middle District of Alabama, and have been for a period of thirty-three (33) years. I know that I currently represent William Tidwell, Plaintiff in the above styled case, relating to injuries and damages he received as a result of an accident which occurred in Macon County, Alabama, on September 2, 2004. I do further know that suit was filed in Macon County, Alabama, on September 1, 2006, relating to this accident. On October 6, 2006, I received a copy of Defendants' Notice of Removal to the United States District Court for the Middle District of Alabama. Defendants' Notice of Removal asserts diversity of

citizenship and claims that damages exceed \$75,000.00 because there are four separate Counts in the complaint, each claiming \$75,000.00, plus costs.

While it is correct that Plaintiff filed his Complaint in four separate Counts, such Counts were not intended to be cumulative claims of damages but rather, separate legal contentions as a basis of Plaintiff's total damages, which do not exceed \$75,000.00. Plaintiff, William Tidwell, by virtue of this affidavit and his affidavit, which is attached, hereby waives any claim for damages in this case which exceeds \$75,000.00.

FURTHER AFFIANT SAITH NOT.


Henry F. Lee, III

Sworn to and subscribed before me on this the 12th day of October, 2006.


Notary Public
My Commission Expires: 1-13-2007

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ESTATE OF VERNELL BRIAN)	
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AFFIDAVIT OF WILLIAM TIDWELL

STATE OF ALABAMA

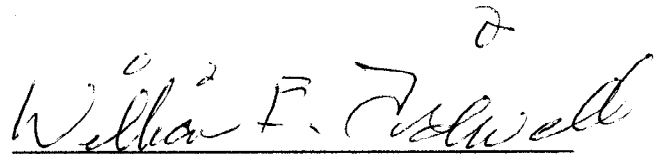
GENEVA COUNTY

Before me the undersigned authority personally appeared William Tidwell, who being by me first duly sworn, deposes and says as follows:

My name is William Tidwell and I am the Plaintiff in the above styled case. I know that I am over the age of nineteen (19) years and currently reside at 1204 Petty Road, Westville, Florida. I know that on September 2, 2004, I was a passenger in an 18-wheeler which was involved in an accident in Macon County, Alabama. I know that as a result of that accident, I received injuries and damages. I do further know that suit was filed on my behalf in Macon County, Alabama, on September 1, 2006. On or about October 10, 2006, I received a copy of the Notice of Removal to the United States District Court for the Middle District of Alabama from my attorney. I know that although I have been injured as a result of this accident, my damages do not

exceed \$75,000.00 and I do hereby waive any claim
for damages which exceeds \$75,000.00.

FURTHER AFFIANT SAITH NOT.


William Tidwell

Sworn to and subscribed before me on this the 12th day
of October, 2006.


Notary Public
My Commission Expires: 1-17-2009